

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X

ANNA THOMAS,

Plaintiff(s),
-against-

**NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION**

*CIRCUIT CITY STORES, INC., and "JOHN DOES", said
named being fictitious and is intended to represent the
unknown employees of the defendant.*

Defendant(s).

-----X

SIR S:

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules
the testimony, upon oral examination of defendants whose address is c/o their attorneys as an
adverse parties will be taken before a Notary Public, who is not an attorney, or employee of an
attorney, for any party or prospective party herein and is not a person who would be disqualified to
act as a juror because of interest or because of consanguinity or affinity to any party herein at **THE
LAW OFFICE OF SHAEVITZ & SHAEVITZ, ESQS., 148-55 Hillside Avenue, Jamaica, New
York on the 7th day of December, 2007, at 10 o'clock in the forenoon** of that day with respect to
evidence material and necessary in the prosecution-defense of this action:

All of the relevant facts and circumstances in connection with the issues arising herein.

That the said person to be examined is required to produce at such examination the
following:

ALL BOOKS, RECORDS, DOCUMENTS AND MATERIALS RELATIVE TO THE ABOVE.

Dated: Jamaica, New York
 November 1, 2007

Yours, etc.,

SHAEVITZ & SHAEVITZ, ESQS.
Attorneys for Plaintiff(s)
148-55 Hillside Avenue
Jamaica, New York 11435
(718) 291-3400

To: RENDE, RYAN & DOWNES, LLP
Attorneys for Defendant(s)
CIRCUIT CITY STORES, INC.
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444
File No.: S-125-CW

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
ANNA THOMAS,

Plaintiff(s),

-against-

**PLAINTIFFS' NOTICE
FOR PHYSICAL
EXAMINATION AND
EXCHANGE OF MEDICAL
INFORMATION**

*CIRCUIT CITY STORES, INC., and "JOHN DOES", said
named being fictitious and is intended to represent the
unknown employees of the defendant.*

Defendant(s).

-----X

S I R S :

PLEASE TAKE NOTICE that pursuant to the Rules governing physical examinations and exchange of medical information, the plaintiffs in the within action desire that the defendants hold a physical examination of plaintiff **ANNA THOMAS**.

That such examination will be held at **a time and place to be determined at a Preliminary Conference**.

PLEASE TAKE FURTHER NOTICE that you are required within five days after the receipt of this notice, to submit to the undersigned the name and address of the physician who will conduct such physical examination on behalf of the defendant(s).

Dated: Jamaica, New York
 November 1, 2007

Yours, etc.,

SHAEVITZ & SHAEVITZ, ESQS.
Attorneys for Plaintiff(s)
148-55 Hillside Avenue
Jamaica, New York 11435
(718) 291-3400

To: RENDE, RYAN & DOWNES, LLP
Attorneys for Defendant(s)
CIRCUIT CITY STORES, INC.
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444
File No.: S-125-CW

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
ANNA THOMAS,

Plaintiff(s),

-against-

CIRCUIT CITY STORES, INC., and "JOHN DOES", said
named being fictitious and is intended to represent the
unknown employees of the defendant.

Defendant(s).

-----X
COMBINED DEMANDS FOR:

- A)** *Discovery and Inspection*
- B)** *Collateral Source information*
- C)** *Names and Addresses of Witnesses*
- D)** *Expert Witness Disclosure*
- E)** *Statements*

S I R S:

PLEASE TAKE NOTICE, that pursuant to the provisions of Article 31 of the CPLR,
demand is made that you produce at the office of the undersigned within twenty (20)

days from the date of this notice, for discovery and inspection and copying, the following:

1. Copies of all statements and/or tape recordings made by or taken of the plaintiffs, their agents, servants, and/or employees in your possession, custody or control or presently in the possession of a party you are retained by or represent.
2. Copies of all photographs and/or video tape recordings made by or taken of the plaintiffs, their agents, servants, and/or employees in your possession, custody or control or presently in the possession of a party you are retained by or represent.
3. Copies of all accident reports in your possession, custody or control or presently in the possession of a party you are retained by or represent relating to the incident(s) claimed in this lawsuit, including claims of other persons arising out of this incident, whether prepared exclusively for litigation or by the defendants or their witnesses.

4. Copies of all photographs and/or video tape recordings of the scene of the accident, in your possession, custody or control or presently in the possession of a party you are retained by or represent, which depict the condition of the location at the time of the accident, immediately prior thereto and/or shortly after the accident which is the subject of this action.

5. Copies all photographs and/or video tape recordings of the scene of the accident in your possession, custody or control or presently in the possession of a party you are retained by or represent, which depict the condition of the premises at the time of the accident and/or shortly after the accident which is the subject of this action.

6. Verified copies of any and all insurance agreements in your possession, custody or control or presently in the possession of a party you are retained by or represent, under which any person carrying on a business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy said judgment. This shall include, but is not limited to, excess, secondary and/or umbrella policies, and shall list the name(s) and address(es) of each such insurer, the policy or agreement date(s) and the extent of coverage of the policies.

7. Copies of all records of inspection and maintenance, for a period of one (1) year prior to and after the incident herein complained of, in your possession, custody or control or presently in the possession of a party you are retained by or represent, of the premise(s) which was involved in the accident which is the subject of this action.

8. Copies of all records and reports of prior similar accidents and incidents occurring upon the premises for a period of three years prior to the date of this occurrence.

9. Copies of all prior Notices of Claim for the location complained of for a period of three years prior to this occurrence.

10. Forward complete copies of the lease and/or rental and/or hold harmless agreements regarding the premises.

11. If a store, multiple dwelling or private house, set forth the owners name and address and the tenants names and addresses.

12. Copies of all records of inspection, maintenance, work orders, permits, cut sheets, repairs, construction, demolition and other work performed upon the premises complained of for a period of three years prior to and including the day of the incident.

13. Copies of all writings including contracts, literature, instructions, manuals, documents, labels, logs and records regarding care, maintenance, use and operation of the premises and/or object complained of.

14. If a dog-bite case, the name, license number, health department certification, and medical records of the subject canine.

15. If an elevator, copies of the maintenance contracts, maintenance, inspection and repair records for a period of three years prior to the date of the occurrence.

16. If a construction case, copies of all contracts, work orders, permits and other writings indicating the location and extent of work to be performed, persons or entities subcontracted to perform services on the job site, addresses of such parties and/or entities.

17. If a judgment or other claim or counterclaim is alleged against the plaintiff(s), copies of all papers, documents, judgments and orders pertaining to said claims.

18. Copies of all letters, maps and legends received from the Big Apple Pothole and Sidewalk Protection Corporation or any other complainant for the location alleged for a period of four years prior to the date of this incident.

19. Copies of requests for repairs received from any source for the location alleged for a period of four years prior.

20. Copies of all notes, papers, documents and other writings indicating what action was taken, if any, with respect to notices received of conditions and requests for repairs, if any, including cut sheets, work permits and contracts.

21. Names, and if no longer employed current addresses, of all persons present at and about the accident scene, including employees, witnesses, operators, passengers, maintenance, supervisors, security, investigators, engineers, conductors, contractors, subcontractors.

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 2103 (e) of the CPLR, the name(s) and address(es) of each party and attorney appearing in this action are to be provided to the undersigned.

PLEASE TAKE FURTHER NOTICE, that the plaintiff(s) demands that you serve upon the undersigned any papers served to date, upon any party herein, and that all subsequent papers also be served upon the undersigned.

PLEASE TAKE FURTHER NOTICE, that the plaintiff(s) demands that you set forth in writing, under oath, and serve upon us within twenty (20) days of this date, the name(s) and address(es) of each person(s) known or claimed by you to be a witness(es) to the occurrence and/or as to notice of the conditions, if any, alleged in the complaint herein. This demand is an on-going demand.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 3101(d)(1), you are hereby required to set forth the following:

- a. The name and address of each and every person you expect to call as an expert witness at the trial of this action.
- b. The subject matter on which each expert witness is expected to testify.
- c. The substance of the facts and opinions on which each expert witness is expected to testify.
- d. The qualification of each expert witness.
- e. A summary of the grounds for each expert witness' opinion.

PLEASE TAKE FURTHER NOTICE, that the plaintiff(s) demands that each and every party to this action produce legible copies of any and all statements, written or electronically recorded, taken of the answering defendant(s) by any other party to this action, within twenty (20) days of the date.

Dated: Jamaica, New York
November 1, 2007

Yours, etc.,

SHAEVITZ & SHAEVITZ, ESQS.
Attorneys for Plaintiff(s)
148-55 Hillside Avenue
Jamaica, New York 11435
(718) 291-3400

*To: RENDE, RYAN & DOWNES, LLP
Attorneys for Defendant(s)
CIRCUIT CITY STORES, INC.
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444
File No.: S-125-CW*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X

ANNA THOMAS,

Plaintiff(s),

**DEMAND FOR
BILL OF PARTICULARS**

-against-

*CIRCUIT CITY STORES, INC., and "JOHN DOES", said
named being fictitious and is intended to represent the
unknown employees of the defendant.*

Defendant(s).

-----X

S I R S:

PLEASE TAKE NOTICE that plaintiffs hereby demand that you serve upon SHAEVITZ & SHAEVITZ, ESQS, 148-55 Hillside Avenue, Jamaica, New York 11435, attorneys for plaintiffs within 20 days after service hereto, a verified Bill of Particulars of the allegations contained in defendants' Answer, in which defendants shall set forth and specify:

1. A detailed statement of the act or acts of negligence, culpability, lack of care or omissions on the part of the plaintiff(s) which it will be claimed caused or contributed to the accident and/or injuries suffered by the plaintiff(s).
 - a) Set forth the time of each of said acts and/or omissions.
 - b) Set forth the location of each of said acts and/or omissions.
 - c) A statement of what risk it will be claimed plaintiff assumed.
 - I) Set forth the time when said risk was assumed.
 - ii) Set forth the exact location where said risk was assumed.

- d) Whether the alleged assumption of risk was voluntary or involuntary.
- e) A detailed statement of the acts and/or omissions on the part of the plaintiff when it will be claimed constituted assumption of risk and the manner in which it will be claimed said risk was assumed.

2. A statement of the degree, extent and/or proportion to which it will be claimed plaintiff's alleged negligence contributed to the accident and/or to the injuries suffered by the plaintiff.

3. Set forth the proportion, extent, degree and nature of plaintiff's injuries and/or damages it will be alleged the acts and/or omissions of the plaintiff caused, continued or contributed to plaintiff's injuries.

4. State whether it will be claimed plaintiff's alleged negligent acts were committed and/or omitted by plaintiff solely or jointly with other persons.

- a) If with other persons, set forth the names and addresses of other persons.
- b) Set forth a detailed statement of the act or acts of negligence and/or omissions which will be alleged on the part of each other person.
- c) Set forth the degree, extent and/or proportion to which it will be claimed the alleged negligence of each other person contributed to the accident.
- d) Set forth the time and location of each of the aforementioned acts by each person.

5. Set forth the owner, lessor, lessee, renter, rentee, occupants, managing agent, property manager and operator of the aforementioned premises, distinguishing between the land and its appurtenances, if different.

6. Set forth the name of all maintenance companies and persons employed to provide services upon the premises as well as copies of all contracts and agreements pursuant thereto.

7. Set forth the names, addresses and legal counsel of all other persons claiming damages for injuries arising out of the same occurrence alleged in this action.

8. Set forth the names and current addresses of all other parties claimed to be either wholly or partially responsible for the happening of the alleged occurrence.

Dated: Jamaica, New York
 November 1, 2007

Yours, etc.,

SHAEVITZ & SHAEVITZ, ESQS.
Attorneys for Plaintiff(s)
148-55 Hillside Avenue
Jamaica, New York 11435
(718) 291-3400

To: RENDE, RYAN & DOWNES, LLP
Attorneys for Defendant(s)
CIRCUIT CITY STORES, INC.
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444
File No.: S-125-CW

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF)

ANNA THOMAS being duly sworn, deposes and says:

That he/she is the plaintiff in the within action; that he/she has read the annexed **Bill of Particulars** and know the contents of the foregoing and that the same is true to his/her knowledge, except as to the matters therein stated to be alleged upon information and belief and that as to those matter, plaintiff believes them to be true.

X Anna Thomas
ANNA THOMAS

Sworn to before me this
31st day of May, 2007.

NOTARY PUBLIC, STATE OF NEW YORK
STUART L. SEARS
NOTARY PUBLIC, State of New York
No. 02525049209
Qualified in Queens County
Commission Expires September 11, 2009

ATTORNEY CERTIFICATION

STUART SEARS, an attorney admitted to practice in the Courts of New York State, certified the following statements:

That he is an associate attorney with the law firm of **SHAEVITZ & SHAEVITZ, ESQS.**, attorneys for the plaintiff(s) in the above-entitled action; that he has read the foregoing **Bill of Particulars and Response to Discovery Demands, Response to Demand for Expert Witness, Cross Notice to Take Deposition upon Oral Examination and Exchange of Medical Information, Plaintiff(s) Demand for Physical Examination, Plaintiff(s) Combined Demands and Demand for a Verified Bill of Particulars** and knows the contents thereof; and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true. That the presentation of the foregoing papers or the contentions therein are not frivolous as defined in subsection (c) of Section 130.-1.I.

Dated: Jamaica, New York
 November 1, 2007



STUART SEARS

INDEX NUMBER: 20767/07

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

ANNA THOMAS,

Plaintiff(s),

-against-

CIRCUIT CITY STORES, INC., and "JOHN DOES", said named being fictitious and is intended to represent the unknown employees of the defendant.

Defendant(s).

PLAINTIFF(s) VERIFIED BILL OF PARTICULARS and RESPONSE TO
COMBINED DEMAND FOR DISCOVERY & INSPECTION
NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION, PLAINTIFF(S)
NOTICE FOR A PHYSICAL EXAMINATION AND EXCHANGE OF MEDICAL
INFORMATION, A RESPONSE TO DEMAND FOR EXPERT WITNESS, PLAINTIFF(S)
COMBINED DEMANDS AND DEMAND FOR A VERIFIED BILL OF PARTICULARS

SHAEVITZ & SHAEVITZ

Attorneys for Plaintiff(s)

Office and Post Office Address, Telephone

148-55 Hillside Avenue

Jamaica, New York 11435

"WE DO NOT ACCEPT SERVICE BY ELECTRONIC TRANSMISSION (FAX)"

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted

Dated:,

Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF ENTRY

That the within is a (certified) true copy of an ORDER entered in the office of the clerk of the within named court on , 200 .

NOTICE OF SETTLEMENT

That an Order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named court, at

on , 200 , at 10:00 A.M.

Dated: Jamaica, New York

To:

SHAEVITZ & SHAEVITZ
Attorney for Plaintiff(s)
148-55 Hillside Avenue
Jamaica, New York 11435
(718) 291-3400

02/05/2007 Mon 17:00

Lenox

Exhibit(s) Page 16 of 20

ID: #194789 Page 2 of 2

Erich Biedenschenk, M.D.
 David A. Follett, M.D.
 Karen B. Wagner, M.D.
 Tuan X. Ha, M.D.
 Peter Rountree, M.D.
 Shelley E. Wertheim, M.D.
 Evan S. Morton, M.D.



LENOX HILL RADIOLOGY &
 MEDICAL IMAGING ASSOCIATES P.C.

61 East 77th Street, New York, NY 10021 • TEL: 212-772-3111 • FAX: 212-288-1637 • www.lenoxhillradiology.com

Keith S. Tobin, M.D.
 William Louis, M.D.
 Karen Fried, M.D.
 Kathy J. Tobin, M.D.
 Fred A. Perrulli, M.D.
 Mykola Mohuchy, M.D.
 Ritsa Aroca, M.D.

Jacob Lichy, M.D.
 Thomas M. Kolt, M.D.

LENOX HILL RADIOLOGY & MEDICAL IMAGING ASSOCIATES P.C.

61 East 77th Street, New York, NY 10021 • TEL: 212-772-3111 • FAX: 212-288-1637 • www.lenoxhillradiology.com

January 13, 2007

THOMAS, ANNA
 99-10 60th Avenue, Apt. 5J
 Corona, NY 11368
 Att: 410065

C. Kyniakides, M.D.
 38-25 Astoria Boulevard
 Astoria, NY 11103

Dear Dr. Kyniakides:

MAGNETIC RESONANCE IMAGING OF THE RIGHT WRIST: 1-09-07

There is deformity and marrow edema in the distal radius. If the presence of a fracture is suspected, correlation with plain films is necessary. There is fluid at the distal radio-ulnar joint indicating a tear of the distal radio-ulnar ligament. There is a partial tear of the scapho-lunate ligament. There is cyst formation in the capitate. There is mild increased signal surrounding the flexor tendons suggesting a tenosynovitis. The extensor tendons are unremarkable. There is a tear of the triangular fibro-cartilage. There is also some degree of deformity of the scaphoid, possibly due to subluxation. Correlation with plain films is also recommended for further evaluation. There is no marrow signal abnormality within the scaphoid.

IMPRESSION: Tear of the triangular fibro-cartilage. Evidence of a distal radial fracture for which correlation with plain films is recommended. Partial tears of the distal radio-ulnar ligament and scapho-lunate ligament. Joint effusion. Flexor tenosynovitis. Deformity of the scaphoid. See above.

Thank you for referring this patient to our office.

Sincerely,



Thomas M. Kolt, M.D.

TK/cb

Films delivered to above address

NEW YORK ORTHOPAEDIC SURGERY & REHABILITATION

Physical Medicine § Orthopaedic Surgery § Sports Medicine § Electrodiagnostic Studies § Joint Replacement

Christopher Kyriakides, D.O.
F.A.A., PM&R
Board Certified, ABPMR

David R. Adin, D.O.
Fellow, Royal College of
Surgeons
Diplomate, American Board of
Minimally Invasive Spinal
Medicine & Surgery
Board Certified, ABPMR

Thomas Scilaxis, M.D.
Orthopaedic Surgery
Board Certified, ABOS

Date: January 4, 2007

RE: Thomas, Anna

INITIAL EVALUATION:

Chief Complaints: Severe pain of the wrist and shoulder with swelling

History of Present Illness: This patient is 69 years old and fell at Circuit City sustaining a fracture of her right wrist.

Impression: Right wrist fracture with internal arrangement, right shoulder impingement

Plan: The patient will be placed in a fiberglass cast and will be reevaluated periodically for any changes in the bony structure, the fracture was first reduced with traction and she will also be recommended to have a wrist MRI. She is currently totally disabled.

Sincerely,

Christopher Kyriakides, D.O.

CK:jd
Astoria

NEW YORK ORTHOPAEDIC SURGERY & REHABILITATION

Physical Medicine § Orthopaedic Surgery § Sports Medicine § Electrodiagnostic Studies § Joint Replacement

Christopher Kyriakides, D.O.
F.A.A., PM&R
Board Certified, ABPMR

David R. Adin, D.O.
Fellow, Royal College of
Surgeons
Diplomate, American Board of
Minimally Invasive Spinal
Medicine & Surgery
Board Certified, ABPMR

Thomas Scilaris, M.D.
Orthopaedic Surgery
Board Certified, ABOS

Date: February 15, 2007

RE: Thomas, Anna

FOLLOW UP REPORT

History / Chief Complaints: This patient continues to complain of right wrist pain and tenderness secondary to a fracture that she sustained on December 28, 2006. She was immobilized with a fiberglass cast, which was removed, and a subsequent x-rays reveal a callous bone formation. She will be started on the therapy treatment program. MRI studies revealed a tear of the triangular fiber cartilaginous complex with a tear of the radial ulnar ligament and a tear of the scaphoid lunate ligament with a distal radial fracture.

Physical Exam: There is still tenderness with limited mobility. Swelling persists at the wrist and there are deficits to light touch.

Assessment/Plan: She will be started on a weekly therapy program in hopes of restoring her function and will be reevaluated in six weeks.

Sincerely,

Christopher Kyriakides, D.O.

CK:jd
Astoria

NEW YORK ORTHOPAEDIC SURGERY & REHABILITATION

Physical Medicine § Orthopaedic Surgery § Sports Medicine § Electrodiagnostic Studies § Joint Replacement

Christopher Kyriakides, D.O.
F.A.A., PM&R
Board Certified, ABPMR

David R. Adin, D.O.
Fellow, Royal College of
Surgeons
Diplomate, American Board of
Minimally Invasive Spinal
Medicine & Surgery
Board Certified, ABPMR

Thomas Scilaris, M.D.
Orthopaedic Surgery
Board Certified, ABOS

Date: April 10, 2007

RE: Thomas, Anna

FOLLOW UP REPORT

History / Chief Complaints: This patient has residual right arm and shoulder pain after having been injured on December 20, 2006 in a fall. She sustained a distal radius fracture and sustained a tear of the triangular fibrocartilaginous complex. There was also a tear of the radial ulnar ligament and the scaphoid lunate ligament. She has some residual pain and deficits and has not return to normal functioning capabilities.

Physical Exam: There is still some tenderness and involuntary movements in the fingers and wrist. There is some shoulder discomfort though she states that it is improving.

Assessment/Plan: The patient will require continued therapy, which will be tapered. We will also have an EMG with NCV study to determine if there is any median nerve compression.

Sincerely,

Christopher Kyriakides, D.O.

CK:jd
Astoria

NEW YORK ORTHOPAEDIC SURGERY & REHABILITATION

Physical Medicine § Orthopaedic Surgery § Sports Medicine § Electrodiagnostic Studies § Joint Replacement

Christopher Kyriakides, D.O.
F.A.A., PM&R
Board Certified, ABPMR

David R. Adin, D.O.
Fellow, Royal College of
Surgeons
Diplomate, American Board of
Minimally Invasive Spinal
Medicine & Surgery
Board Certified, ABPMR

Thomas Scilaris, M.D.
Orthopaedic Surgery
Board Certified, ABOS

Date: June 26, 2007

RE: Thomas, Anna

FOLLOW UP REPORT

History / Chief Complaints: This patient is here today for a follow-up evaluation as she continues to have pain in her right hand and wrist as a result of an accident she was involved in on December 28, 2006. She injured her triangular fibrocartilaginous complex where she sustained a tear and also sustained a distal radial fracture with a tear of the radial ulnar ligament and the scaphoid lunate ligament. There is also evidence of nerve damage noted on recent EMG studies.

Physical Exam: She has continued Tinel's sign and positive Phalen's maneuver and there is weakness present at the hand and limited mobility of the wrist.

Assessment/Plan: The patient will require continued therapy on a weekly basis and we will reevaluate her periodically to make a determination if therapy continues to benefit her or if she may need to consider surgery.

Sincerely,

Christopher Kyriakides, D.O.

CK:gmr
Astoria